

105TH CONGRESS
1ST SESSION

H. R. 2506

To direct the Secretary of the Interior to convey the Collbran Reclamation Project to the Ute Water Conservancy District and the Collbran Conservancy District.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 18, 1997

Mr. McINNIS introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To direct the Secretary of the Interior to convey the Collbran Reclamation Project to the Ute Water Conservancy District and the Collbran Conservancy District.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Collbran Project Unit
5 Conveyance Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) DISTRICTS.—The term “Districts” means
2 the Ute Water Conservancy District and the
3 Collbran Conservancy District (including their suc-
4 cessors and assigns), which are political subdivisions
5 of the State of Colorado.

6 (2) FEDERAL RECLAMATION LAWS.—The term
7 “Federal reclamation laws” means the Act of June
8 17, 1902, and Acts amendatory thereof or supple-
9 mentary thereto (32 Stat. 388, chapter 1093; 43
10 U.S.C. 371 et seq.) (including regulations adopted
11 under those Acts).

12 (3) PROJECT.—The term “project” means the
13 Collbran Reclamation project, as constructed and
14 operated under the Act of July 3, 1952 (66 Stat.
15 325, chapter 565), including all property, equip-
16 ment, and assets of or relating to the project that
17 are owned by the United States, including—

18 (A) Vega Dam and Reservoir (but not in-
19 cluding the Vega Recreation Facilities);

20 (B) Leon-Park dams and feeder canal;

21 (C) Southside Canal;

22 (D) East Fork diversion dam and feeder
23 canal;

24 (E) Bonham-Cottonwood pipeline;

25 (F) Snowcat shed and diesel storage;

1 (G) Upper Molina penstock and power
2 plant;

3 (H) Lower Molina penstock and power
4 plant;

5 (I) the diversion structure in the tailrace of
6 the Lower Molina power plant;

7 (J) all substations and switchyards;

8 (K) a nonexclusive easement for the use of
9 existing easements or rights-of-way owned by
10 the United States on or across non-Federal
11 land that are necessary for access to project fa-
12 cilities;

13 (L) title to land reasonably necessary for
14 all project facilities (except land described in
15 subparagraph (K) or paragraph (2) or (3) of
16 section 3(a));

17 (M) all permits and contract rights held by
18 the Bureau of Reclamation, including without
19 limitation or contract or other rights relating to
20 the operation, use, maintenance, repair, or re-
21 placement of the water storage reservoirs lo-
22 cated on the Grand Mesa that are operated as
23 part of the project;

24 (N) all equipment, parts inventories, and
25 tools;

1 (O) all additions, replacements, better-
2 ments, and appurtenances to any of the land,
3 interests in land, personal property, permits,
4 contract rights, or facilities described in sub-
5 paragraphs (A) through (N); and

6 (P) a copy of all data, plans, designs, re-
7 ports, records, or other materials, whether in
8 writing or in any form of electronic storage, re-
9 lating specifically to the project.

10 (4) VEGA RECREATION FACILITIES.—The term
11 “Vega Recreation Facilities” includes—

12 (A) buildings, campgrounds, picnic areas,
13 parking lots, fences, boat docks and ramps,
14 electrical lines, water and sewer systems, trash
15 and toilet facilities, roads, a nonexclusive ease-
16 ment for use of the road over Vega Dam, trails,
17 and other structures and equipment used for
18 State park purposes (such as recreation, main-
19 tenance, and daily and overnight visitor use), at
20 and near Vega Reservoir;

21 (B) lands above the high water level of
22 Vega Reservoir within the area previously de-
23 fined by the Secretary as the “Reservoir Area
24 Boundary” that have not historically been uti-
25 lized for Collbran project water storage and de-

livery facilities, together with an easement for public access for recreational purposes to Vega Reservoir and the water surface of Vega Reservoir and for construction, operation, maintenance, and replacement of facilities for recreational purposes below the high water line; and

(C) improvements constructed or added under the agreements referred to in section 3(f).

(5) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

SEC. 3. CONVEYANCE.

(a) IN GENERAL.—

(1) CONVEYANCE TO DISTRICTS.—

(A) IN GENERAL.—On or before the date that is 1 year after the date of enactment of this Act, the Secretary shall convey to the Districts all right, title, and interest of the United States in and to the project by quitclaim deed and bill of sale, without warranties, subject only to the requirements of this Act.

(B) ACTION PENDING CONVEYANCE.—

Until the conveyance under subparagraph (A) occurs, the Commissioner of Reclamation shall

1 continue to exercise the responsibility to provide
2 for the operation, maintenance, repair, and re-
3 placement of project facilities and the storage
4 reservoirs on the Grand Mesa to the extent that
5 the responsibility is the responsibility of the Bu-
6 reau of Reclamation and has not been delegated
7 to the Districts before the date of enactment of
8 this Act or is not delegated or transferred to
9 the Districts by agreement after that date, so
10 that at the time of the conveyance the facilities
11 are in the same condition as, or better condition
12 than, the condition of the facilities on the date
13 of enactment of this Act.

14 (2) EASEMENTS ON NATIONAL FOREST SYSTEM

15 LANDS.—

16 (A) IN GENERAL.—On or before the date
17 that is 1 year after the date of enactment of
18 this Act, the Secretary of Agriculture shall
19 grant, subject only to the requirements of this
20 Act—

21 (i) a nonexclusive easement on and
22 across National Forest System land to the
23 Districts for ingress and egress on access
24 routes in existence on the date of enact-
25 ment of this Act to each component of the

1 project and each storage reservoir on the
2 Grand Mesa in existence on the date of en-
3 actment of this Act that is operated as
4 part of the project;

5 (ii) a nonexclusive easement on Na-
6 tional Forest System land for the oper-
7 ation, use, maintenance, repair, and re-
8 placement (but not enlargement) of the
9 storage reservoirs on the Grand Mesa in
10 existence on the date of enactment of this
11 Act to the owners and operators of the res-
12 ervoirs that are operated as a part of the
13 project; and

14 (iii) a nonexclusive easement to the
15 Districts for the operation, use, mainte-
16 nance, repair, and replacement (but not
17 enlargement) of the components of project
18 facilities that are located on National For-
19 est System land, subject to the require-
20 ment that the Districts shall provide rea-
21 sonable notice to and the opportunity for
22 consultation with the designated represent-
23 ative of the Secretary of Agriculture for
24 nonroutine, nonemergency activities that
25 occur on the easement.

1 (B) EXERCISE OF EASEMENT.—The ease-
2 ment under subparagraph (A)(ii) may be exer-
3 cised if the land use authorizations for the stor-
4 age reservoirs described in subparagraph (A)(ii)
5 are restricted, terminated, relinquished, or
6 abandoned, and the easement shall not be sub-
7 ject to conditions or requirements that interfere
8 with or limit the use of the reservoirs for water
9 supply or power purposes.

10 (3) EASEMENTS TO DISTRICTS FOR SOUTHSIDE
11 CANAL.—On or before the date that is 1 year after
12 the date of enactment of this Act, the Secretary
13 shall grant to the Districts, subject only to the re-
14 quirements of this Act—

15 (A) a nonexclusive easement on and across
16 land administered by agencies within the De-
17 partment of the Interior for ingress and egress
18 on access routes to and along the Southside
19 Canal in existence on the date of enactment of
20 this Act; and

21 (B) a nonexclusive easement for the oper-
22 ation, use, maintenance, repair, and replace-
23 ment of the Southside Canal, subject to the re-
24 quirement that the Districts shall provide rea-
25 sonable notice to and the opportunity for con-

1 sultation with the designated representative of
2 the Secretary for nonroutine, nonemergency ac-
3 tivities that occur on the easement.

4 (4) WHEN EASEMENTS GRANTED.—The ease-
5 ments under paragraphs (2) and (3) shall be grant-
6 ed before or simultaneously with the conveyance of
7 the project under paragraph (1).

8 (b) RESERVATION.—

9 (1) IN GENERAL.—The conveyance of rights or
10 interests under subsection (a) shall reserve to the
11 United States all minerals (including hydrocarbons)
12 and a perpetual right of public access over, across,
13 under, and to the portions of the project that on the
14 date of enactment of this Act were open to public
15 use for fishing, boating, hunting, and other outdoor
16 recreation purposes and other public uses such as
17 grazing, mineral development, and logging.

18 (2) RECREATIONAL ACTIVITIES.—The United
19 States may allow for continued public use and enjoy-
20 ment of such portions of the project for recreational
21 activities and other public uses as are conducted as
22 of the date of enactment of this Act.

23 (c) CONVEYANCE TO STATE OF COLORADO.—All
24 right, title, and interest in the Vega Recreation Facilities
25 shall remain in the United States until the terms of the

1 agreements referred to in subsection (f) have been fulfilled
2 by the United States, at which time all right, title, and
3 interest in the Vega Recreation Facilities shall be con-
4 veyed by the Secretary to the State of Colorado, Division
5 of Parks and Outdoor Recreation.

6 (d) PAYMENT.—

7 (1) IN GENERAL.—At the time of the convey-
8 ance under subsection (a)(1), the Districts shall pay
9 to the United States \$12,900,000 (\$12,300,000 of
10 which represents the net present value of the out-
11 standing repayment obligations for the project), of
12 which—

13 (A) \$12,300,000 shall be deposited in the
14 general fund of the Treasury of the United
15 States; and

16 (B) \$600,000 shall be deposited in a spe-
17 cial account in the Treasury of the United
18 States and shall be available to the United
19 States Fish and Wildlife Service, Region 6,
20 without further Act of appropriation, for use in
21 funding Colorado operations and capital ex-
22 penditures associated with the Grand Valley
23 Water Management Project for the purpose of
24 recovering endangered fish in the Upper Colo-
25 rado River Basin, as identified in the Recovery

1 Implementation Program for Endangered Fish
2 Species in the Upper Colorado River Basin, or
3 such other component of the Recovery Imple-
4 mentation Program within Colorado as may be
5 selected with the concurrence of the Governor
6 of the State of Colorado.

7 (2) SOURCE OF FUNDS.—Funds for the pay-
8 ment to the extent of the amount specified in para-
9 graph (1) shall not be derived from the issuance or
10 sale, prior to the conveyance, of State or local bonds
11 the interest on which is exempt from taxation under
12 section 103 of the Internal Revenue Code of 1986.

13 (e) OPERATION OF PROJECT.—

14 (1) IN GENERAL.—

15 (A) DECLARATION.—The project was au-
16 thorized and constructed under the Act of July
17 3, 1952 (66 Stat. 325, chapter 565) for the
18 purpose of placing water to beneficial use for
19 authorized purposes within the State of Colo-
20 rado.

21 (B) OPERATION.—The project shall be op-
22 erated and used by the Districts for a period of
23 40 years after the date of enactment of this Act
24 for the purposes for which the project was au-
25 thorized.

1 (C) CHANGES IN OPERATION.—The Dis-
2 tricts shall attempt, to the extent practicable,
3 taking into consideration historic project oper-
4 ations, to notify the State of Colorado of
5 changes in historic project operations which
6 may adversely affect State park operations.

7 (2) REQUIREMENTS.—During the 40-year pe-
8 riod described in paragraph (1)(B)—

9 (A) the Districts shall annually submit to
10 the Secretary of Agriculture and the Colorado
11 Department of Natural Resources a plan for
12 operation of the project, which plan shall—

13 (i) report on project operations for the
14 previous year;

15 (ii) provide a description of the man-
16 ner of project operations anticipated for
17 the forthcoming year, which shall be pre-
18 pared after consultation with the des-
19 ignated representatives of the Secretary of
20 Agriculture, the Board of County Commis-
21 sioners of Mesa County, Colorado, and the
22 Colorado Department of Natural Re-
23 sources; and

24 (iii) certify that the Districts have op-
25 erated and will operate and maintain the

1 project facilities in accordance with sound
2 engineering practices; and

3 (B) subject to section 4, all electric power
4 generated by operation of the project shall be
5 made available to and be marketed by the
6 Western Area Power Administration.

7 (f) AGREEMENTS.—Conveyance of the project shall
8 be subject to the agreements between the United States
9 and the State of Colorado dated August 22, 1994, and
10 September 23, 1994, relating to the construction and op-
11 eration of recreational facilities at Vega Reservoir, which
12 agreements shall continue to be performed by the parties
13 to the agreements according to the terms of the agree-
14 ments.

15 **SEC. 4. OPERATION OF THE POWER COMPONENT.**

16 (a) CONFORMITY TO HISTORIC OPERATIONS.—The
17 power component and facilities of the project shall be oper-
18 ated in substantial conformity with the historic operations
19 of the power component and facilities (including recent op-
20 erations in a peaking mode).

21 (b) POWER MARKETING.—

22 (1) EXISTING MARKETING ARRANGEMENT.—
23 The post-1989 marketing criteria, which provide for
24 the marketing of power generated by the power com-
25 ponent of the project as part of the output of the

1 Salt Lake City area integrated projects, shall no
2 longer be binding on the project upon conveyance of
3 the project under section 3(a).

4 (2) AFTER TERMINATION OF EXISTING MAR-
5 KETING ARRANGEMENT.—

6 (A) IN GENERAL.—

7 (i) FIRST OFFER.—After the convey-
8 ance under section 3(a), the Districts shall
9 offer all power produced by the power com-
10 ponent of the project to the Western Area
11 Power Administration or its successors or
12 assigns (referred to in this paragraph as
13 “Western”), which, in consultation with its
14 affected preference customers, shall have
15 the first right to purchase such power at
16 the rates established under subparagraph
17 (B).

18 (ii) SECOND OFFER.—If Western de-
19 clines to purchase the power after con-
20 sultation with its affected preference cus-
21 tomers, the power shall be offered at the
22 same rates first to Western’s preference
23 customers located in the Salt Lake City
24 area integrated projects marketing area

(referred to in this paragraph as the “SLCAIP preference customers”).

(iii) OTHER OFFERS.—After offers have been made under clauses (i) and (ii), power may be sold to any other party, but no such sale may occur at a rate less than a rate established under subparagraph (B) unless the power is offered at the lesser rate first to Western and second to the SLCAIP preference customers.

(B) RATE.—The rate for power initially offered to Western and the SLCAIP preference customers under this paragraph shall not exceed that required to produce revenues sufficient to provide for—

(i) annual debt service or recoupment of the cost of capital (or a combination of both) for the amount specified in section 3(d)(1)(A) less the sum of \$310,000 (which is the net present value of the outstanding repayment obligation of the Collbran Conservancy District); and

(ii) the cost of operation, maintenance, and replacement of the power component of the project.

1 (C) DETERMINATION OF COSTS AND
2 RATE.—Costs and a rate under subparagraph
3 (B) shall be determined in a manner that is
4 consistent with the principles followed, as of the
5 date of enactment of this Act, by the Secretary
6 and by Western in its annual power and repay-
7 ment study.

8 **SEC. 5. LICENSE.**

9 (a) IN GENERAL.—Before conveyance of the project
10 to the Districts, the Federal Energy Regulatory Commis-
11 sion shall issue to the Districts a license or licenses as
12 appropriate under part I of the Federal Power Act (16
13 U.S.C. 791 et seq.) authorizing for a term of 40 years
14 the continued operation and maintenance of the power
15 component of the project.

16 (b) TERMS OF LICENSE.—

17 (1) IN GENERAL.—The license under subsection

18 (a)—

19 (A) shall be for the purpose of operating,
20 using, maintaining, repairing, and replacing the
21 power component of the project as authorized
22 by the Act of July 3, 1952 (66 Stat. 325, chap-
23 ter 565);

24 (B) shall be subject to the condition that
25 the power component of the project continue to

1 be operated and maintained in accordance with
 2 the authorized purposes of the project; and

3 (C) shall be subject to part I of the Fed-
 4 eral Power Act (16 U.S.C. 791 et seq.) except
 5 as stated in paragraph (2).

6 (2) LAWS NOT APPLICABLE.—

7 (A) FEDERAL POWER ACT.—

8 (i) IN GENERAL.—The license under
 9 subsection (a) shall not be subject to the
 10 following provisions of the Federal Power
 11 Act: the word “constructed” in section
 12 3(10) (16 U.S.C. 796d(10)); the 4 provisos
 13 of section 4(e) (16 U.S.C. 797(e)); section
 14 6 (16 U.S.C. 799) to the extent that the
 15 section requires acceptance by a licensee of
 16 terms and conditions of the Act that this
 17 subsection waives; section 10(e) (insofar as
 18 the subsection concerns annual charges for
 19 the use and occupancy of Federal lands
 20 and facilities); subsection (f) or (j) of sec-
 21 tion 10 (16 U.S.C. 803); section 18 (16
 22 U.S.C. 811); section 19 (16 U.S.C. 812);
 23 section 20 (16 U.S.C. 813); or section 22
 24 (16 U.S.C. 815).

1 (ii) NOT A GOVERNMENT DAM.—Not-
2 withstanding that any dam under the li-
3 cense under subsection (a) may have been
4 constructed by the United States for Gov-
5 ernment purposes, the dam shall not be
6 considered to be a Government dam, as
7 that term is defined in section 3 of the
8 Federal Power Act (16 U.S.C. 796).

9 (iii) STANDARD FORM LICENSE CON-
10 DITIONS.—The license under subsection (a)
11 shall not be subject to the standard “L-
12 Form” license conditions published at 54
13 FPC 1792–1928 (1975).

14 (B) OTHER LAWS.—The issuance of the li-
15 cense under subsection (a) shall not be subject
16 to—

17 (i) the Federal Land Policy and Man-
18 agement Act of 1976 (43 U.S.C. 1701 et
19 seq.);

20 (ii) section 2402 of the Energy Policy
21 Act of 1992 (16 U.S.C. 797c);

22 (iii) the National Environmental Pol-
23 icy Act of 1969 (42 U.S.C. 4321 et seq.);

24 (iv) the Endangered Species Act of
25 1973 (16 U.S.C. 1531 et seq.);

1 (v) the Wild and Scenic Rivers Act
2 (16 U.S.C. 1271 et seq.);

3 (vi) the Federal Water Pollution Con-
4 trol Act (commonly known as the “Clean
5 Water Act”) (33 U.S.C. 1251 et seq.);

6 (vii) the National Historic Preserva-
7 tion Act (16 U.S.C. 470 et seq.);

8 (viii) the Coastal Zone Management
9 Act of 1972 (16 U.S.C. 1451 et seq.);

10 (ix) the Fish and Wildlife Coordina-
11 tion Act (16 U.S.C. 661 et seq.); or

12 (x) any other Act otherwise applicable
13 to the licensing of the project.

14 (3) LAWS ENACTED AFTER ISSUANCE OF LI-
15 CENSE.—The operation of the project shall be subject
16 to all existing and future applicable State and Fed-
17 eral laws enacted after the date of issuance of the
18 license under subsection (a).

19 (c) LICENSING STANDARDS.—The license under sub-
20 section (a) is deemed to meet all licensing standards of
21 the Federal Power Act (16 U.S.C. 791 et seq.).

22 (d) POWER SITE RESERVATION.—Any power site res-
23 ervation established under section 24 of the Federal Power
24 Act (16 U.S.C. 818) or any other law, that exists on any
25 land, whether federally or privately owned, that is included

1 within the boundaries of the project shall be vacated by
2 operation of law on issuance of the license for the project.

3 (e) EXPIRATION OF LICENSE.—All requirements of
4 part I of the Federal Power Act (16 U.S.C. 791 et seq.)
5 and of any other Act applicable to the licensing of a hydro-
6 electric project shall apply to the project on expiration of
7 the license issued under this section.

8 **SEC. 6. INAPPLICABILITY OF PRIOR AGREEMENTS AND OF**
9 **FEDERAL RECLAMATION LAWS.**

10 On conveyance of the project to the Districts—

11 (1) the repayment contract dated May 27,
12 1957, as amended April 12, 1962, between the
13 Collbran Conservancy District and the United
14 States, and the contract for use of project facilities
15 for diversion of water dated January 11, 1962, as
16 amended November 10, 1977, between the Ute
17 Water Conservancy District and the United States,
18 shall be terminated and of no further force or effect;
19 and

20 (2) the project shall no longer be subject to or
21 governed by the Federal reclamation laws.

22 **SEC. 7. LIABILITY OF THE DISTRICTS.**

23 The Districts shall be liable, to the extent allowed
24 under State law, for all acts or omissions relating to the
25 operation and use of the project by the Districts that occur

1 subsequent to the conveyance under section 3(a), including
2 damage to any Federal land or facility that results from
3 the failure of a project facility.

4 **SEC. 8. EFFECT ON STATE LAW.**

5 Nothing in this Act impairs the effectiveness of any
6 State or local law (including a regulation) relating to land
7 use.

8 **SEC. 9. TREATMENT OF SALES FOR PURPOSES OF CERTAIN**
9 **LAWS.**

10 The sales of assets under this Act shall not be consid-
11 ered to be a disposal of Federal surplus property under—

12 (1) section 203 of the Federal Property and
13 Administrative Services Act of 1949 (40 U.S.C.
14 484); or

15 (2) section 13 of the Surplus Property Act of
16 1944 (50 U.S.C. App. 1622).

○